

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DONGDONG HUANG,

Plaintiff,

v.

Case No. 10-12598

CONTINENTAL TIRE THE AMERICAS, LLC,

Defendant.

**ORDER VACATING ORDER TO SHOW CAUSE AND GRANTING MOTION TO
AMEND COMPLAINT**

On December 27, 2010, the court ordered Plaintiff to show cause, finding his averments of diversity of citizenship unsatisfactory. Plaintiff timely responded on January 10, 2011. In his response, Plaintiff states that he is a citizen of Michigan. (Resp. ¶ 6.) Plaintiff avers that counsel for Plaintiff and Defendant are working together to provide a stipulation to the court regarding Defendant's citizenship. (*Id.* ¶ 7.) The court explained in the order to show cause that because Defendant is a limited liability company, its citizenship is determined by the citizenships of its members; tracing Defendant's corporate parentage, the court found Defendant's citizenship is controlled by that of Continental Global Holding Netherlands, B.V. This entity is incorporated in the Netherlands, and while Plaintiff does not definitively provide the corporation's principal place of business in his response, he asserts that if there is any principal place of business in the United States, it is in South Carolina, and not in Michigan. (*Id.* ¶¶ 9-10.) Based on these assertions, it appears there is complete diversity of citizenship and the court therefore has jurisdiction. Because these assertions are sufficient to satisfy

the court of its subject matter jurisdiction, the parties may, but are not required to, file the stipulation referenced in Plaintiff's response.

Plaintiff also filed a motion to amend his complaint, presumably in response to the court's order to show cause. As Plaintiff has already amended his complaint once, Plaintiff "may amend [his] pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires." Fed. R. Civ. P. 15(a)(2).

In general, a plaintiff need not amend its complaint in response to an order to show cause. Here, Plaintiff avers that Defendant "does not contest" the motion, (Mot. ¶ 5), but Plaintiff does not provide Defendant's written consent. That written consent is unnecessary, however, because as Plaintiff only "wishes to amend his Complaint in order to set forth the citizenship of Defendant Continental's member and sub-member entities," (*id.* ¶ 4), "justice so requires" giving leave to amend.

Accordingly, IT IS ORDERED that the court's "Order to Show Cause" [Dkt. # 15] is VACATED.

IT IS FURTHER ORDERED that Plaintiff's "Motion to Amend Complaint" [Dkt. # 17] is GRANTED. Plaintiff is DIRECTED to file his second amended complaint by **January 31, 2011.**

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: January 24, 2011

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, January 24, 2011, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522